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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/396,486	09/14/1999	JOSEPH URBANO	9994-8US	7505

757 7590 06/30/2005

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EXAMINER

JAWORSKI, FRANCIS J

ART UNIT	PAPER NUMBER
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3737

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/396,486

Applicant(s)

URBANO ET AL.

Examiner

Jaworski Francis J.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36, 46-49, 51-53, 55-57, 59-61, 63, 65 and 67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36, 46-49, 51-53, 55-57, 59-61, 63, 65 and 67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 14 September 0199 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 – 36, 46 – 49, 51-53, 55 – 57, 59-61, 63, 65 and 67 are again rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Wright et al and Cole et al, further in view of any of Doi et al, Muzilla, Deitrich et al, Snyder or Morrow as argued in the prior Office action and to the extent this rejection carries forward to claims remaining after late entry of the Preliminary Amendment first filed June 27, 2000, and also further in view of (a) Scheib et al (US5628321) or Pflugrath et al (US5603323) or alternatively (b) Hall (US5394520) or Zellenga et al (US5144242).

With regards to the base reference combination with secondary teachings not antedated by the Rule 131 Affidavit, applicants contend on page 5 of the Amendment response that whereas the secondary references do use re-programmable logic it does not provide essential functionality to the subsystem(s) in which it resides. It is submitted that this terminology is subjective and met by the application of the previously provided art in the sense that since the various assembly functions cannot be discharged without functioning of the re-programmable device portions then these devices are not reasonably characterizable as non-essential to functionality of the subsystem in which they are resident. With regards to the more than one/less than three limitation incorporated into certain of the base claims by the aforementioned Pre-amendment, since a device is synonymous with apparatus one may point to a bank of logic units and assign them a rank of 'one device'.

With regards to further reference teachings under (a), if it is accepted that the RPLD devices taught in the secondary teachings are non-essential in the sense of peripheral, then it would have been obvious in view of Scheib et al (Col. 5 lines 36 – 48) or Pflugrath et al (col. 5 lines 8 – 26) to use a re-programmable device such as an EEPROM to receive for temporary execution a software logic for control of one or more of an ultrasound imaging or computational subsystem since this allows the programmer to correct for error and the system to re-configure after execution of the specialty application.

With regards to further reference teachings under (b), since the use of RPLDs was known in imaging systems, see Hall col. 7 lines 1 – 18 or Zellenga et al as a

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medical imaging system, see Figs. 7-11 and 13 variously EPLD sequencing control of an MRI scanning protocol therein, broad claims to all possible functionalities within imaging systems which are ultrasound in mode appear to be predatory upon the general progress in imaging science into adopting these devices into core functionalities.

Response to Amendment Arguments

The carrying forward of the rejection involving secondary teachings Doi et al, Muzilla etc. is in effect an argument that one cannot parse 'essential functionality' in an ultrasound imaging subsystem since if the component will not function or is disabled by malfunction of the RPLD then that device was essential to functionality. Newly lodged supplemental rejections argue that at least EEPROM type re-programmable devices were known to extend to core functionalities in controlling scan operation and specialty calculations within medical imaging systems, and alternatively at least EPLD use was extended to core functionalities of imaging systems in general and to medical imaging systems in particular.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738

FJJ:fjj

06252005



Francis J. Jaworski
Primary Examiner